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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,498	05/31/2001	Michael Peter Etgen	RSW920010060US1	8713

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EXAMINER

WEST, JEFFREY R

ART UNIT	PAPER NUMBER
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2857

DATE MAILED: 06/16/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/871,498

Applicant(s)

ETGEN, MICHAEL PETER

Examiner

Jeffrey R. West

Art Unit

2857

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-41 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 May 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to because in Figure 4A, the selected percentage field is labeled "450" instead of "458" as it is described on page 16, line 3. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

2. The disclosure is objected to because of the following informalities:

On page 18, the formulas for "average" and "standard deviation" are not located with their corresponding labels. It is requested that Applicant provide a corrected page 18.

Appropriate correction is required.

Claim Objections

3. Claims 2, 9, 17, 24, 30, and 37 are objected to because of the following informalities:

In claims 2, 17 and 30, "within set of time segments" should be ---within the set of time segments--

To avoid problems of antecedent basis, in claims 9, 24 and 37, "time segment" should be ---the time segment within the set of time segments---.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5, 13, 20, 28, 33, and 41 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 5, 13, 20, 28, and 33, are considered to be vague and indefinite because they include a limitation for specifying log data to include at least one of "hits, requests, page views, and sessions." However, since the specification, on page 2, lines 24-25, defines requests as hits, the limitation as claimed is selecting from a group comprising redundant data types, making the claim unclear.

Regarding claim 41, the abbreviation "i.e." renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1, 3, 5, 7, 14, 16, 18, 20, 22, 29, 31, 33 and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,892,917 to Myerson.

Myerson discloses a method in a data processing system for maintaining data integrity in logs, the method comprising reviewing a log, such as a web-log including request data (column 1, lines 49-52 and column 5, lines 23-54), determining whether the log contains a data loss (column 3, lines 13-17), and adding data from a prior log to replace the data loss in the log (column 3, lines 17-20) to increase the integrity of the log if a determination is made that a data loss has occurred (column 2, lines 27-42).

Myerson discloses that the log includes a sequence/set of time segments (column 2, lines 60-62) calculating a data integrity level for the log and comparing the integrity level to a threshold in order to determine if an acceptable level of integrity has been reached (column 8, lines 47-58).

Myerson also discloses that the method is implemented as a computer program product of corresponding instructions (column 4, line 40), in a system comprising a memory containing the instructions (column 4, lines 18-19), a processing unit for executing the instructions (column 4, lines 16-17), a communications unit (column 4, line 19), and a user interface (column 4, line 19), all connected to a bus (Figure 1).

8. Claims 8, 11, 13, 23, 26, 28, 36, 39, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,931,912 to Wu et al.

Wu discloses a method in a data processing system for analyzing a log, the method comprising analyzing a set of time segments in the log to determine whether a tolerance of a time gap, considered with respect to an adjacent segment (column 7, lines 36-39), has been exceeded for a time segment within the set of time segments (column 9, lines 57-65) and responsive to a determination that the time gap tolerance has been exceeded for the time segment within the set of time segments, generating an alert in the form of a flag used by a program to process the log (column 9, line 65 to column 10, line 9).

Wu discloses that the log includes a web log containing request data (column 5, lines 25-30) and that the method is implemented as a computer program product of corresponding instructions (column 5, lines 40-44).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-3, 5-9, 11-18, 20-24, 26-31, 33-37, and 39-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myerson in view of Wu.

As noted above, the invention of Myerson teaches many features of the claimed invention, and while Myerson does teach analyze frequency (i.e. time) differences in the current web-log to determine if data should be appended (column 8, line 66 to

column 9, line 7), Myerson does not specifically disclose flagging the determination of an excessive time gap for log analysis.

Wu teaches a method in a data processing system for analyzing a log, the method comprising analyzing a set of time segments in the log to determine whether a tolerance of a time gap, considered with respect to an adjacent segment (column 7, lines 36-39), has been exceeded for a time segment within the set of time segments (column 9, lines 57-65) and responsive to a determination that the time gap tolerance has been exceeded for the time segment within the set of time segments, generating an alert in the form of a flag used by a program to process the log (column 9, line 65 to column 10, line 9).

Wu teaches that the log includes a web log containing request data (column 5, lines 25-30) and that the method is implemented as a computer program product of corresponding instructions (column 5, lines 40-44).

It would have been obvious to one having ordinary skill in the art to modify the invention of Myerson to include specifically flagging the determination of an excessive time gap for log analysis, as taught by Wu, because Myerson teaches a web-log method for use with hypertext systems (Myerson; column 1, lines 31-34) and Wu teaches a method similar to Myerson for determining when web-log data is missing and performing a corresponding appending routine (Wu; column 7, lines 42-49) due to caching of data (Wu; column 3, lines 45-52) in a hypertext system (Wu; column 2, lines 54-57) and suggests that the combination would have provided a corresponding method for adding data by selecting a proper active session and valid

traversal path to append the current log entry using time-gap data (Wu; abstract and column 7, lines 50-52) thereby increasing the reliability of the resulting log data.

11. Claims 4, 10, 19, 25, 32, and 38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Myerson in view of Wu and further in view of U.S. Patent No. 5,778,387 to Wilkerson et al.

As noted above, the invention of Myerson and Wu teaches many features of the claimed invention, and while the combination does teach generating an alert in the form of a flag (Wu; column 9, line 65 to column 10, line 9) and including multiple logs for data storage (Wu; column 4, lines 10-15), the combination does not specifically include presenting the alert to a user through an interface or specify that the appended data be derived from a set of prior logs.

Wilkerson teaches a database automated recovery system for recovering data for a log (column 7, lines 17-24) including a set of logs (column 7, lines 39-50) wherein a user interface alerts a user when data recovery is needed and allows the user to select from a set of logs to derive the data to be recovered (column 9, line 30 to column 10, line 18).

It would have been obvious to one having ordinary skill in the art to modify the invention of Myerson and Wu to include specifically presenting the alert to a user through an interface and specifying that the appended data be derived from a set of prior logs, as taught by Wilkerson, because, as suggested by Wilkerson, the combination would have given the user more control over the recovery process in

order to insure that the desired data is recovered from whatever previous data set is most accurate to insure the reliability of the recovered data in a simplified manner (column 2, lines 31-45, column 9, line 30 to column 10, line 18, and column 10, lines 28-50).

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent No. 6,178,427 to Parker teaches a method of mirroring log datasets using both log file data and live log data including gaps between the two data logs.

U.S. Patent No. 6,073,128 to Pongracz et al. teaches a method and apparatus for identifying files used to restore a file.

U.S. Patent No. 4,758,956 to Duffy teaches a system for replacing defective portions of log data.

U.S. Patent Application Publication No. 2001/0056438 to Ito teaches a database system with backup and recovery mechanisms.

U.S. Patent Application Publication No. 2002/0062223 to Waugh teaches a system and method for adding network traffic data to a database of network traffic data.

U.S. Patent Application Publication No. 2002/0107837 to Osborne et al. teaches a method and apparatus for logically reconstructing incomplete records in a database using a transaction log.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. West whose telephone number is (571)272-2226. The examiner can normally be reached on Monday through Friday, 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marc S. Hoff can be reached on (571)272-2216. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

jrww
June 10, 2004


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